

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00046  
**Petitioners:** Donald E. & Bonnie L. Cook  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-20-13-0282-0002  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on November 13, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$26,400 and notified the Petitioner on March 26, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 9, 2004.

### Facts

5. The subject property is located at 1793 Novo Drive, Schererville in St. John Township.
6. The subject property is a vacant residential lot.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF is land \$26,400.
9. Assessed Value requested by Petitioners is land \$4,100.
10. Persons sworn as witnesses at the hearing:  
For Petitioners — Donald E. and Bonnie L. Cook, Owners,  
For Respondent — Larry Vales, Senior Appraiser, Cole-Layer-Trumble.

## **Issue**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment: The subject parcel was purchased for \$3,000 in 1996. An engineering study determined that the subject parcel, due to its current state, couldn't support a structural load. A building cannot be constructed on this lot. *D. Cook testimony; Pet. Ex. 6.*
12. Summary of Respondent's contentions in support of the assessment: The Respondent offered to apply a negative 90 percent influence factor for a non-buildable lot. With the negative 90 percent influence factor, the value of the subject parcel is \$3,300. *Vales testimony.*

## **Record**

13. The official record for this matter is made up of the following:
  - a) The Petition.
  - b) The tape recording of the hearing labeled Lake Co.-416.
  - c) Exhibits:
    - Petitioner Exhibit 1: A copy of the Form 139L.
    - Petitioner Exhibit 2: A summary of the Petitioners' contentions.
    - Petitioner Exhibit 3: An outline of the Petitioners' evidence.
    - Petitioner Exhibit 4: The 1996 property record card for the subject property.
    - Petitioner Exhibit 5: The 2002 property record card for the subject property.
    - Petitioner Exhibit 6: Copy of the Sales Disclosure Form for the subject property.
    - Petitioner Exhibit 7: A request for reclassification of taxes.
    - Petitioner Exhibit 8: Property information printout for the subject property.
    - Petitioner Exhibit 9: Property information printout for a property located at 1785 Novo Drive.
    - Board Exhibit A: Form 139 L.
    - Board Exhibit B: Notice of Hearing.
    - Board Exhibit C: Sign in Sheet.
  - d) These Findings and Conclusions.

## **Analysis**

14. The most applicable laws are:
  - a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

- b) In making its case, the taxpayer must explain how piece of evidence is relevant to the requested assessment. *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct.). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because the parties agreed to the application of a negative 90 percent influence factor to the land value. The parties agreed that the land value should be \$3,300. *D. Cook & Vales testimony; Pet. Ex. 6.*

### **Conclusion**

16. The Petitioners made a prima facie case. The Board finds in favor of the Petitioners.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect the land value as the parties agreed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**